

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

October Term 1900

No. 100,700

THE UNITED STATES, APPELLANT,

THE PARKHURST TRACT, APPEELEE, OF THE 24
TOWNSHIP OF ST. MARY, COUNTY OF ST. MARY, MONTANA.

APPEAL FROM THE DISTRICT COURT OF THE TERRITORY OF MONTANA FOR THE
COUNTY OF ST. MARY.

WILLIAM H. HARRIS, CLERK.

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1898.

No. 395.

THE UNITED STATES, APPELLANT,

VS.

THE PARKHURST-DAVIS MERCANTILE CO.; THE NATIONAL BANK OF ST. MARYS, KANSAS, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF KANSAS.

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1 THE UNITED STATES OF AMERICA :

To the Parkhurst-Davis Mercantile Co., a corporation organized under the laws of the State of Kansas ; The National Bank of Saint Marys, Kansas, a corporation organized under the national banking laws of the United States ; J. K. Burnham, Thos. E. Hanna, A. H. Munger, Fred C. Stoepel, R. R. Missrer, partners, as Burnham, Hanna, Munger & Co. ; J. Hamilton Bell, J. Henry Conrad, partners, as Bell, Conrad & Co. ; Thos. Page, George M. Haas ; The State Bank of Holton, a corporation organized under the laws of the State of Kansas ; The National Bank of Holton, a corporation organized under the national banking laws of the United States, greeting :

You are hereby cited and admonished to be and appear in the Supreme Court of the United States, at the city of Washington, thirty days from and after the day this citation bears date, pursuant to an appeal filed in the clerk's office of the circuit court of the United States for the first division of the judicial district of Kansas, wherein The United States of America is appellant and you are appellees, to show cause, if any there be, why the judgment rendered against the said appellant, as in said appeal mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness the Honorable Cassius G. Foster, judge of the circuit court of the United States for the district of Kansas, this 1st day of August, in the year of our Lord one thousand eight hundred and ninety-eight.

CASSIUS G. FOSTER,

United States District Judge for the District of Kansas.

12 (Endorsed :) No. 616, civil 1, folio 153. No. 7512. United States circuit court, first division of the judicial district of Kansas. U. S. of America vs. The Parkhurst-Davis Mercantile Co. et al. Citation. Filed 1st day of August, 1898. Geo. F. Sharitt, clerk.

Marshal's return.

Received the within writ at Topeka, Ks., August 5, 1898, and served same on S. K. Linscott, as president of the National Bank of Holton, by delivering to him personally a true and certified copy of this writ at Holton August 6, 1898 ; also on the same day and date, at the same place, I served this writ on John Q. Myers, as president of the State Bank of Holton, and George M. Haas, by delivering to each of them personally a true and certified copy of this writ.

On August 8, 1898, I served this writ on Silas B. Warren, as president of the National Bank of St. Marys, at St. Marys, Kansas, by delivering to him personally a true and certified copy of this writ.

W. E. STERNE,

U. S. Marshal, Dist. of Kansas,

By F. C. TRIGG, Deputy.

I further return that I am unable to find the remainder of said defendants in my district.

Fees—service, four persons	\$8.00
Travel—Topeka to Holton, 30 miles, at 6c	1.80
Topeka to St. Marys, 24 miles, at 6c	1.44
Total	11.24 E.

On August 6th, 1898, at Topeka, Shawnee County, Kansas, I served the same upon the within defendants, The Parkhurst-Davis Mercantile Co., by delivering to W. H. Davis personally a true and certified copy of this writ, with all the endorsements thereon, he, the said W. H. Davis, then and there being the president of said defendant, The Parkhurst-Davis Mercantile Co.

On August 8, 1898, at Topeka, Shawnee County, Kansas, I served the same upon the within-named defendant, Thos. Page, by delivering to him personally a true and certified copy of this writ.

W. E. STERNE, *U. S. Marshal*,
By D. N. WILLITS, *Deputy*.

(Fees—service, 2 persons, at \$2.00 each, \$4.00. E.)

2 In the circuit court of the United States for the district of Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT,

vs.

THE PARKHURST-DAVIS MERCANTILE COMPANY,
a corporation organized under the laws of the State of Kansas; The National Bank of St. Marys, Kansas, a corporation organized under the national banking laws of the United States; J. K. Burnham, Thomas E. Hanna, A. H. Munger, Fred C. Stoepel, R. R. Missrer, Harry McWilliams, Henry L. Root, partners as Burnham, Hanna, Munger & Co.; J. Hamilton Bell & J. Henry Conrad, partners as Bell, Conrad & Co.; Thomas Page; George M. Haas; The State Bank of Holton, a corporation organized under the laws of the State of Kansas; The National Bank of Holton, a corporation organized under the banking laws of the United States, defendants.

The United States of America, by W. C. Perry, United States attorney for the district of Kansas, by authority of the Attorney-General of the United States, brings this, its bill of complaint, against The Parkhurst-Davis Mercantile Company, a corporation; The National Bank of St. Marys, Kansas, a corporation; J. K. Burnham, Thomas E. Hanna, A. H. Munger, Fred C. Stoepel, R. R. Missrer, Harry McWilliams, Henry L. Root, partners as Burnham, Hanna, Munger & Co.; J. Hamilton Bell & J. Henry Conrad, partners as Bell, Conrad & Co.; Thomas Page; George M. Haas; The State Bank of Holton, a corporation; The National Bank of Holton, a corporation, and thereupon your orator complains and says:

II. That by many treaties, duly proclaimed and yet in force, between the United States and the Pottawatomie tribe or nation of Indians there was set apart a reservation for said Indians in the county of Jackson, State of Kansas, for the sole and exclusive use and possession of the Prairie band of Pottawatomie Indians. That by the terms and provisions of said treaties it is provided that said Prairie band of Pottawatomie Indians shall remain on said reservation under the care and parental

protection of your orator, and that the United States will preserve the personal and property rights of said Indians from the encroachments of white men, and from the operation of the laws of any State of the Union within which said reservation might be included. That by the provisions of said treaties and by the general policy of the Government of the United States the relation of guardian and ward has for many years subsisted, and still subsists, between said tribe of Indians and your orator. That by the terms of said treaties, and by the provisions of the acts organizing the Territory of Kansas and admitting the State of Kansas into the Union, the said reservation so set aside and since and now in the possession of said Prairie band of Pottawatomie Indians was excluded from the Territory and State of Kansas. That by the act of Congress which admitted Kansas into the Union it was expressly provided, among other things, as follows, to wit:

"That nothing contained in the said constitution respecting the boundary of said State shall be construed to impair the rights of person or property now pertaining to the Indians of said Territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with such Indian tribe, is not, without the consent of such tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries and constitute no part of the State of Kansas until said tribe shall signify their assent to the President of the United States to be included within said State or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights by treaty, law, or otherwise which it would have been competent to make if this act had never passed."

That said Prairie band of Pottawatomie Indians has never in any manner consented or signified to the President of the United States that any of the rights of person or property formerly pertaining to the members of said tribe should be extinguished, nor have they ever consented that their said reservation should be included within the territorial limits of the State of Kansas, nor has the Government of the United States, acting for such Indians or otherwise, ever consented that the status of such reservation or the status of the Indians occupying it (as such status existed on the admission of Kansas into the Union) should be in any way changed or modified.

III. And your orator further complaining shows to the court that in pursuance of its treaty obligations with said tribe of Indians it has established, and for many years has maintained, and is now maintaining an Indian agency for the government and protection of said Prairie band of Pottawatomie Indians in accordance with the various treaties to which said tribe or band of Indians is a party, and pursuant to various acts of Congress passed from time to time regulating intercourse between the Government and said Indian tribe. That pursuant to law and in the performance of its duty to said tribe of Indians, the Government has appointed and paid, and is now employing and paying an Indian agent, who is in charge of said Indian tribe and of each of the members of said tribe, and in like performance of its duty and pursuant to law has authorized and empowered sundry persons to transact mercantile and other

business with the individual members of said tribe of Indians, but which said business has been always conducted on said reservation and under the supervision of said Indian agent and the Commissioner of Indian Affairs. That said Indian tribe has since the proclamation of said treaties maintained and is now maintaining a tribal organization, and said tribe has at all times maintained and is now maintaining itself as a distinct community not subject to the laws of Kansas, but under the exclusive protection and care of the United States as a dependent people or organization. That none of the land in said Indian reservation has ever been subject to taxation by the State or municipal authorities of the State of Kansas, nor have the Indians themselves been subject to be served with process issuing from the courts of the State of Kansas.

IV. And your orator, further complaining, shows to the court that the Bureau of Indian Affairs, prior to the institution of any of the so-called actions at law hereinafter mentioned, had lawfully authorized Eli G.

5 Nadeau, Son & Company to transact a mercantile business on the reservation of the Prairie band of Pottawatomie Indians, said firm consisting of Eli G. Nadeau, John Nadeau, and Henry B. Ekcum, the said Eli G. Nadeau and John Nadeau being members of said Pottawatomie tribe of Indians, and the said Henry B. Ekcum being a white man; that recently the said Ekcum became an embezzler and fled the country, with practically all the available means and assets of said Eli G. Nadeau, Son & Company, except a stock of merchandise, located in a storehouse on said Pottawatomie Indian Reservation; that after said Ekcum had decamped, the defendants, the Parkhurst-Davis Mercantile Company, the National Bank of St. Marys, Burnham, Hanna, Munger & Company, Bell, Conrad & Company, Thomas Page, the State Bank of Holton, and the National Bank of Holton, each undertook and attempted to commence an action at law against said Eli G. Nadeau, Son & Company in the district courts of Jackson and Shawnee counties, State of Kansas; that each of said defendants undertook and pretended to have a summons issued out of said district courts, and had said so-called summons delivered to the defendant, George M. Haas, as sheriff of said Jackson County; that said George M. Haas, assuming to act as said sheriff, unlawfully and without authority entered upon said Pottawatomie Indian Reservation and there undertook and pretended to serve said so-called summons, and each of them, upon said Eli G. Nadeau and John Nadeau, licensed traders and members of said Prairie Band of Pottawatomie Indians, as aforesaid; that the defendants, the Parkhurst-Davis Mercantile Company, the National Bank of St. Marys, Burnham, Hanna, Munger & Company, Bell, Conrad & Company, Thomas Page, the State Bank of Holton, and the National Bank of Holton, each undertook in their said pretended actions to have issued so-called orders of attachment, and cause said so-called orders of attachment to be delivered to the defendant, George M. Haas, as sheriff of Jackson County, Kansas, as aforesaid; that said defendant, George M. Haas, assuming to act as the sheriff of said Jackson County, Kansas, entered upon said Pottawatomie Indian Reservation and there, unlawfully and without authority, undertook and assumed, by virtue of said order of attachment, so obtained by the National Bank of Saint Marys, to levy upon the stock of goods of said licensed traders so situated on said reservation, and also by pretended

6 authority of said order of attachment, undertook and pretended, on said reservation, to levy an attachment upon a large quantity of live stock, hogs and horses, then on said reservation, and then belonging to said Eli G. Nadeau, a member of said Prairie band of Pottawatomie Indians; that said George M. Haas, sheriff of said Jackson County, Kansas, assuming to act in his official capacity, but unlawfully and without authority, after said pretended levies, proceeded, without warrant or authority of law, to sell said property so attached and to convert the proceeds thereof to his own use, and, as your orator is informed and believes, for the benefit of said defendants who had brought said pretended actions against said Eli G. Nadeau, Son & Company; that said Parkhurst-Davis Mercantile Company, The National Bank of Saint Marys, Burnham, Hanna, Munger & Company, Bell, Conrad & Company, Thomas Page, The State Bank of Holton, The National Bank of Holton, and George M. Haas, as sheriff of Jackson County, Kansas, will shortly proceed to subvert the law by distributing among themselves the avails of said property so unlawfully seized and sold, and will thus defy the authority of the United States and prevent your orator from carrying out its treaty and lawful engagements with said Prairie band of Pottawatomie Indians, unless said defendants are restrained from so doing by this honorable court.

V. And your orator, further complaining, shows to the court that the matter and amount in dispute in this suit exceeds the sum or value of two thousand dollars, exclusive of interest and costs, and that the said Eli G. Nadeau and John Nadeau, by reason of the wardship existing between them, and each of them, and your orator, and of the facts in this bill of complaint set forth, are incompetent to sue in their own behalf.

VI. In consideration whereof, and inasmuch as your orator can only have adequate relief in the premises in this honorable court, where matters of this nature are properly cognizable and relievable, your orator prays that this honorable court may order, adjudge, and decree that a preliminary or provisional injunction may be issued against the defendants, restraining them, and each of them, until the further order of this court, from serving, or causing to be served, on said reservation of
7 the Prairie band of the Pottawatomie tribe of Indians any summons, order, attachment, execution, or other process issued out of any court of the State of Kansas against Eli G. Nadeau, John Nadeau, or any other member of said tribe of Indians, and from interfering with or taking possession of, in any manner whatsoever, any property, real or personal, on said Indian reservation belonging to or owned by any member of said tribe of Indians, and from further disposing of or selling any merchandise, live stock, hogs, horses, or other personal property heretofore mentioned, under pretended authority or process issued out of the district courts of Jackson and Shawnee counties, Kansas, or otherwise seized, levied, or taken into possession by said defendants, or either of them.

That a permanent injunction may issue herein in the same purport and effect as is hereinbefore prayed in regard to said preliminary or provisional injunction, and that said defendants, and particularly the defendant George M. Haas, his agents and deputies, be required and com-

manded to return to said Indian reservation and to the possession of the owners from whom he took the same, all merchandise, live stock, horses, hogs, and other personal property heretofore levied on, seized, or sold by him on said reservation; and that this court shall also decree to be void all so-called levies, seizures, and sales of such property heretofore made by the defendants, or either or all of them, and that the pretended title of any person who purchased any of said property at any such alleged sales is null and void.

That your orator may have such other or further or different relief herein, with its costs, as to the court may seem meet and proper.

To the end, therefore, that the said defendants may, if they can, show why your orator should not have the relief hereby prayed for, and may, according to their and each of their best and utmost knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to each and all the matters and things in this bill of complaint contained, and that as fully and as particularly as if the same were here repeated paragraph by paragraph and they were specially interrogated thereunto severally. May it please your honors to grant to

8 your orator a writ of subpoena ad respondendum, issuing out of and under the seal of this honorable court, to be directed to said defendants, The Parkhurst-Davis Mercantile Company; The National Bank of St. Marys; J. K. Burnham, Thomas E. Hanna, A. H. Munger; Fred C. Stoepel, R. R. Missrer, Harry McWilliams, and Henry L. Root, partners as Burnham, Hanna, Munger & Company; J. Hamilton Bell and J. Henry Conrad, partners as Bell, Conrad & Company; Thomas Page, George M. Haas, The State Bank of Holton, The National Bank of Holton, commanding them, on a certain day, under a certain penalty to be inserted therein, to appear before your honors in this honorable court, then and there full, true, direct, and perfect answer make to all and singular the premises; and further, to stand to, perform, and abide by such further order or decree as to your honors shall seem meet; and your orator, as in duty bound, will ever pray, etc.

W. C. PERRY,

United States Attorney and Solicitor for Complainant.

RANKIN MASON,

Of Counsel.

9 In the circuit court of the United States for the district of Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT,	}
<i>vs.</i>	
THE PARKHURST-DAVIS MERCANTILE COMPANY et al., defendants.	

STATE OF KANSAS, *Shawnee County*, ss:

Eli G. Nadeau, being first duly sworn, on his oath deposes and says: I am a member of the Prairie band of Pottawatomie Indians, and have been such for twenty-five years last past. I am not now, nor have I ever been, a citizen of the United States. I have heard read the foregoing bill, and know its contents, and I of my own personal knowledge say that

the statements therein contained are true, except those made upon information and belief, and those I believe to be true.

ELI G. NADEAU.

Subscribed and sworn to before me this 16 day of August, 1897.

[SEAL.]

S. F. HUGHES, *Notary Public*.

(My commission expires Dec. 15, of A. D. 1897.)

(Endorsed:) In the circuit court of the U. S. dist. of Kansas, first division. No. 7512. United States vs. The Parkhurst-Davis Mercantile Company et al. Bill of complaint. Filed Aug. 21, 1897. Geo. F. Sharitt, clerk.

10 In the circuit court of the United States for the district of Kansas, first division.

THE UNITED STATES OF AMERICA, COMPLAINANT,	}
<i>vs.</i>	
THE PARKHURST-DAVIS MERCANTILE COMPANY et al., defendants.	

Motion for temporary injunction.

Comes now the complainant and moves the court to grant a provisional restraining order and injunction as prayed in the bill of complaint, for the reasons therein stated.

I. E. LAMBERT,

Solicitor for Complainant and United States Attorney.

(Endorsed:) No. 7512. In cir. ct. of U. S., dist. of Kas. U. S. vs. The Parkhurst-Davis Mercantile Company et al. Motion for temporary injunction. Filed Aug. 24, 1897. Geo. F. Sharitt, clerk.

11 UNITED STATES OF AMERICA,
District of Kansas, First Division, ss:

THE UNITED STATES OF AMERICA:

To The Parkhurst-Davis Mercantile Company; The National Bank of St. Marys; J. K. Burnham, Thomas E. Hanna, A. H. Munger, Fred C. Stoepel, R. R. Missrer, Harry McWilliams, and Henry L. Root, partners as Burnham, Hanna, Munger & Company; J. Hamilton Bell and J. Henry Conrad, partners as Bell, Conrad & Company; Thomas Page; George M. Haas; The State Bank of Holton; The National Bank of Holton, greeting:

We command you and every of you that you appear before our judge of our circuit court of the United States of America for the district of Kansas, at the city of Topeka, in said district, on the first Monday in the month of October next, to answer the bill of complaint of the United States of America this day filed in the clerk's office of said court in said city of Topeka, then and there to receive and abide by such judgment and decree as shall then or thereafter be made, upon pain of judgment being pronounced against you by default.

To the marshal of the district of Kansas to execute.

Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, at the city of Topeka, in said district, this 21st day of August, in the year of our Lord one thousand eight hundred and ninety-seven.

[SEAL.]

GEORGE F. SHARITT, *Clerk*.

Memorandum.—The above-named defendants are notified that unless they enter their appearance in the clerk's office of said court, at the city of Topeka aforesaid, on or before the day to which the above writ is returnable the complaint will be taken against them as confessed, and a decree entered accordingly.

GEO. F. SHARITT, *Clerk*.

12 (Endorsed:) No. 7512. Circuit court United States, district of Kansas, first division. United States of America vs. The Parkhurst-Davis Mercantile Company et al. Chancery subpoena. Returnable to rule day, first Monday in October, A. D. 1897. Geo. F. Sharitt, clerk. Filed Sept. 1st, A. D. 1897. Geo. F. Sharitt, clerk. W. C. Perry, compt.'s sol.

U. S. marshal's return.

DISTRICT OF KANSAS, ss:

Received the within writ August the 25th, 1897, and executed the same as follows, to wit: Served on the within-named The National Bank of St. Marys on Aug. 27th, 1897, by delivering a true and certified copy of this writ, with all the endorsements thereon, to S. B. Warren personally at St. Marys, Kas., he being president of the National Bank of St. Marys. Aug. 26th, 1897, served on the within-named The National Bank of Holton by delivering a true and certified copy of this writ, with all the endorsements thereon, to S. K. Linscott personally at Holton, Kas., he being the president of the National Bank of Holton. On the same date served on the within-named The State Bank of Holton by delivering a true and certified copy of this writ, with all the endorsements thereon, to John Storrs personally in Jackson Co., 4 miles NE. of Holton P. O., he being vice-president of the State Bank of Holton, the president not being found within my district. Aug. 26th, 1897, served on the within-named Geo. N. Haas, whose name appears in this writ as Geo. M. Haas, by delivering to him personally a true and certified copy of this writ, with all the endorsements thereon at Holton, Kas.

S. F. NEELY, *U. S. Marshal*,
By W. G. NEELY, *Deputy*.

Service	\$8.00
Mileage, Topeka to St. Marys, 24 miles, at 6 cents	1.44
Topeka to 4 miles NE. Holton, 34 miles, at 6 cents	2.04

11.48

THE STATE OF KANSAS,

District of Kansas, First Division, ss:

I further certify that I executed the within writ as follows, to wit: Served on the within-named The Parkhurst-Davis Mercantile Company

at Topeka, Shawnee County, said State and district, on the 28th day of August, A. D. 1897, by delivering to W. H. Davis personally a true and certified copy of the within writ, with all the endorsements thereon, he, the said W. H. Davis, then and there being the president of said The Parkhurst-Davis Mercantile Company. I further certify that at same place and on same day I further executed same writ, as follows, to wit: Served on the within-named Thomas Page by delivering to him personally a like copy of said writ. I further certify that after due and diligent search in my district I am unable to find J. K. Burnham, Thomas E. Hanna, A. H. Munger, Fred Stoepel, R. R. Missrer, Harry McWilliams, and Henry L. Root, partners as Burnham, Hanna, Munger & Company; J. Hamilton Bell and J. Henry Conrad, partners as Bell, Conrad & Company, or either of them, on whom to serve the within writ.

S. F. NEELY, *U. S. Marshal*,
By CHAS. CURRIER, *Deputy Marshal*.

Fees.—Service, 2 persons, \$4.00.

13 In the circuit court of the United States for the district of
Kansas, first division.

THE UNITED STATES OF AMERICA, COMPLAINANT, }
vs.
 THE PARKHURST-DAVIS MERCANTILE COMPANY }
 et al., defendants.

Notice of application for temporary injunction.

To the defendants, The Parkhurst-Davis Mercantile Company, The National Bank of St. Marys, J. K. Burnham, Thomas E. Hanna, A. H. Munger, Fred C. Stoepel, R. R. Missrer, Harry McWilliams, Henry L. Root, J. Hamilton Bell, J. Henry Conrad, Thomas Page, George M. Haas, The State Bank of Holton, and The National Bank of Holton :

You, and each of you, are hereby notified that the complainant will apply to the court above named for a provisional or temporary injunction as prayed in the bill of complaint, and that said application will be heard at the chambers of honorable Cassius G. Foster, United States district judge for the district of Kansas, in the post-office building at Topeka, Kansas, on September 1, 1897, at ten o'clock a. m., or as soon thereafter as counsel can be heard.

I. E. LAMBERT,
Solicitor for Complainant and United States Attorney.

(Endorsed on back.)

U. S. marshal's return.

THE STATE OF KANSAS,
District of Kansas, First Division, ss:

Received the within notice of application for a temporary injunction August 25th, 1897, and executed the same as follows, to wit:

14 Served on the within-named The National Bank of St. Marys, on Aug. 27th, 1897, by delivering a true and certified copy of

this writ, with all the endorsements thereon, to S. B. Warren, personally, at St. Marys, Kas., he being president of the National Bank of St. Marys, Aug. 26th, 1897. Served on the within-named The the National Bank of Holton, by delivering a true and certified copy of this writ, with all the endorsements thereon, to S. K. Linscott, personally, at Holton, Kas., he being the president of the National Bank of Holton. On the same date served on the within-named The State Bank of Holton, by delivering a true and certified copy of this writ, with all the endorsements thereon, to John Storrs, personally, in Jackson Co., 4 miles N. E. of Holton P. O., he being vice-president of the said The State Bank of Holton, the president of the said bank not being found in my district.

Aug. 26th, 1897, served on the within-named Geo. N. Haas, whose name appears in this writ as Geo. M. Haas, by delivering a true and certified copy of this writ, with all the endorsements thereon, to him, personally, at Holton, Kas.

S. F. NEELY, *U. S. Marshal*,
By W. G. NEELY, *Deputy*.

Service	\$8.00
Travel, Topeka to St. Marys, 24 miles	1.44
Travel, Topeka to 4 ms. N. E. of Holton, 34 miles	2.04
	<hr/> 11.48

THE STATE OF KANSAS,

District of Kansas, First Division, ss:

I further certify that I executed the within notice of application for temporary injunction as follows, to wit: Served on the within-named The Parkhurst-Davis Mercantile Company, at Topeka, Shawnee County, said State and district, on the 28th day of August, 1897, by delivering to W. H. Davis, personally, a true and certified copy of the
15 within notice, he, the said W. H. Davis, then and there being the president of said The Parkhurst-Davis Mercantile Company. I further certify that at same place and on same day I further executed same notice as follows, to wit: Served on the within-named Thomas Page, by delivering to him, personally, a like copy of said notice. I further certify that, after due and diligent search in my district, I am unable to find J. K. Burnham, Thomas E. Hanna, A. H. Munger, Fred Stoepel, R. R. Missrer, Harry McWilliams, and Henry L. Root, partners as Burnham, Munger & Company, J. Hamilton Bell and J. Henry Conrad, partners as Bell, Conrad and Company, on either of them on whom to serve the within notice.

S. F. NEELY, *U. S. Marshal*,
By CHARLES CURRIER, *Deputy*.

Fees: Service 2 persons, \$4.00.

(Endorsed:) No. 7512. Notice. Filed Sept. 1st, 1897. Geo. F. Sharitt, clerk.

16 In district court, Jackson County, State of Kansas.

The NATIONAL BANK OF ST. MARYS,
plaintiff,

vs.

ELI G. NADEAU, JOHN A. NADEAU, AND
Henry B. Ekeam, copartners, as E. G. Na-
deau, Son & Co., defendants.

The said plaintiff complains of the said defendants in this the above-entitled action, and shows to this court:

I.

And for a first cause of action plaintiff alleges that in all the times hereinafter mentioned it was and still is a national banking corporation, duly incorporated and existing under the national banking act of the United States; that at all the times hereinafter mentioned the said defendants were and still are copartners, doing business under the firm name and style of E. G. Nadeau, Son & Co. That on the 25th day of May, 1896, at St. Marys, Kansas, the said defendants, as copartners, and the said Henry B. Ekeam and Eli C. Nadeau, individually, for value received, made, executed, and delivered to the plaintiff their certain promissory note, in writing, of that date, a copy of which is hereto attached, marked "Exhibit No. 1," and made a part of this petition. And thereby, for value received, promised, on demand after that date, to pay to the order of this plaintiff one thousand dollars (\$1,000.00) at the National Bank of St. Marys, St. Marys, Kansas, with interest at ten per cent per annum from that date until paid.

Plaintiff further alleges that it has duly demanded payment of said note, and that no part thereof has been paid, except interest thereon
17 to the 8th day of January, 1897, and that there is now due the said plaintiff from the said defendants the full sum of one thousand dollars (\$1,000.00), with interest thereon from the 8th day of January, 1897, at the rate of ten per cent per annum.

II.

And for a second cause of action plaintiff refers to all the above and foregoing parts of this petition relative to the incorporation of the said plaintiff and the copartnership of said defendants, as part hereof, and alleges that on the 1st day of June, 1896, at St. Marys, Kansas, the said defendants, as copartners, and the said Henry B. Ekeam, personally, for value received, made, executed, and delivered to this plaintiff their certain promissory note, in writing, of that date, a copy of which is hereto attached, and marked "Exhibit No. 2," and made a part hereof. And thereby, for value received, promised to pay to the order of this plaintiff on demand, after that date, at the National Bank of St. Marys, St. Marys, Kansas, the sum of five hundred dollars (\$500.00), with interest thereon at ten per cent from that date until paid.

Plaintiff further alleges that it has duly demanded payment of the said promissory note, but that no part of thereof has been paid, except interest

thereon to the first day of January, 1897, and there is now due this plaintiff thereon from the said defendants the full sum of five hundred dollars (\$500.00), with interest thereon from the 1st day of January, 1897, at the rate of ten per cent per annum.

III.

And for a third cause of action plaintiff refers to all the above and foregoing parts of this petition relative to the incorporation of the plaintiff and the copartnership of said defendants, and alleges that on the 12th day of June, 1896, at St. Marys, Kansas, the said defendants, as copartners, and Henry B. Ekeam, personally, for value received, made, executed, and delivered to this plaintiff their certain promissory note in writing of that date, a copy of which is hereto attached, marked "Exhibit No. 3," and made a part of this petition. And thereby, for value received, promised on demand, after that date, to pay to the order of this plaintiff the sum of five hundred dollars (\$500.00) at the National Bank of St. Marys, St. Marys, Kansas, with interest at ten per cent per annum from that date until paid. That plaintiff has duly demanded payment of said promissory note, and that no part thereof has been paid, except interest thereon to the 8th day of January, 1897, and there is now due this plaintiff thereon from the said defendants the full sum of five hundred dollars (\$500.00), with interest thereon from the 8th day of January, 1897, at the rate of ten per cent per annum.

IV.

And for a fourth cause of action plaintiff refers to all the above and foregoing parts of this petition relative to the incorporation of the plaintiff, and the copartnership of said defendants, as part hereof, and alleges that on the 5th day of May, 1897, the said defendants, as copartners, and the said Henry B. Ekeam, under the name of H. B. Ekeam, for value received, made, executed, and delivered to this plaintiff their certain promissory note in writing of that date, a copy of which note is hereto attached, marked "Exhibit No. 4," and made a part of this petition. And thereby for value received, promised on demand, after that date, to pay to the order of this plaintiff at the National Bank of St. Marys, St. Marys, Kansas, the sum of five thousand dollars (\$5,000.00), with interest at ten per cent per annum from that date until paid, if not paid at maturity.

Plaintiff further alleges that it has duly demanded payment of the said promissory note and of the money therein mentioned, which demand has been wholly refused, and to pay the same or any part thereof the said defendants have refused, and do still refuse, and that there is still due this plaintiff on said promissory note last above mentioned from the said defendants the full sum of five thousand dollars (\$5,000.00), with interest thereon from the 5th day of May, 1897, at the rate of ten per cent per annum.

Wherefore, for causes aforesaid, plaintiff prays judgment against said defendants for the sum of seven thousand dollars (\$7,000.00), with interest on five hundred dollars from the first day of January, 1897, at

the rate of ten per cent per annum, and interest on fifteen hundred dollars (\$1,500.00) from the 8th of January, 1897, at the rate of ten per cent per annum, and interest on five thousand dollars (\$5,000.00) from the fifth day of May, 1897, at the rate of ten per cent per annum, and for all costs of this action.

HAYDEN & HAYDEN,
Attorneys for Plaintiff.

EXHIBIT No. 1.

The National Bank of St. Marys. No. 4059.

\$1,000.00. ST. MARYS, KANS., *May 25th, 1896.*

On demand, after date, we promise to pay to the order of the National Bank of St. Marys one thousand dollars at National Bank of St. Marys, St. Marys, Kans., with interest at ten per cent per annum from date until paid. Value received.

E. G. NADEAU, SON & Co.
HENRY B. EKCAM.
ELI G. NADEAU.

(Endorsed on back :) Int. paid to January 8, 1897.

20

EXHIBIT No. 2.

The National Bank of St. Marys. No. 4107.

\$500.00. ST. MARYS, KAS., *June 1, 1896.*

On demand, after date, we promise to pay to the order of the National Bank of St. Marys five hundred dollars at the National Bank of St. Marys, St. Marys, Kansas, with interest at ten per cent per annum from date until paid. Value received.

E. G. NADEAU, SON & Co.
HENRY B. EKCAM.

(Endorsed on back :) Interest paid to January 1, 1897.

EXHIBIT No. 3.

The National Bank of St. Marys. No. 4111.

\$500.00. ST. MARYS, KAS., *June 12th, 1896.*

On demand, after date, we promise to pay to the order of the National Bank of St. Marys five hundred and 00/100 dollars at the National Bank of St. Marys, St. Marys, Kansas, with interest at 10 cent per annum from date until paid.

E. G. NADEAU, SON & Co.
HENRY B. EKCAM.

(Endorsed on back :) Interest paid to January 8, 1897.

EXHIBIT No. 4.

\$5,000.00. St. Marys, Kas., 5—5, 1897. No. 4684.

On demand, after date, I promise to pay to the order of National Bank of St. Marys, at the National Bank of St. Marys, St. Marys, Kansas, five thousand and 00/100 dollars. Value received, presentation and protest waived, with interest at 10 per cent per annum from date until paid, if not paid at maturity.

E. G. NADEAU, SON & Co.
H. B. EKCAM.

21

Certificate of copy.

THE STATE OF KANSAS,

County of Jackson, ss:

I, W. B. Price, clerk of the district court of the first judicial district of the State of Kansas, sitting within and for the county aforesaid, do hereby certify the above and foregoing to be a true, full, and complete copy, with all the endorsements thereon, of petition in the therein entitled cause as the same remains on file here in my office.

Witness my hand and official seal, affixed at my office in Holton, this 27th day of Sept., A. D. 1897.

[SEAL.]

W. B. PRICE,
Clerk Dist. Court.

(Indorsed:) No. 7512. The National Bank of St. Marys, plaintiff, versus Eli G. Nadeau et al., defendants. Petition. Filed May 20th, 1897. W. B. Price, clerk dist. court. Filed Oct. 1st, 1897. Geo. F. Sharitt, clerk.

22 In the district court, for the county of Jackson, State of Kansas.
Term, 188 .

THE NATIONAL BANK OF ST. MARYS, PLAINTIFF,
vs.

ELI G. NADEAU, JOHN A. NADEAU, AND HENRY B. EKCAM, }
copartners as E. G. Nadeau, Son & Co., defendants. }

STATE OF KANSAS, *Jackson County, ss:*

State of Kansas to Geo. N. Haas, sheriff of Jackson County, greeting:

You are commanded to attach the lands, tenements, goods, chattels, stocks, rights, credits, moneys, and effects of each and all of the above-named defendants, Eli G. Nadeau, John A. Nadeau, and Henry B. Ekcarn, in said Jackson County, not exempt by law from being applied to the payment of the above-named plaintiff's claim of seven thousand ninety-five and 21/100 dollars, or so much thereof as will satisfy said plaintiff's claim of seven thousand ninety-five and 21/100 dollars and fifty dollars the probable cost of the above-entitled action. And return this writ on the 30th day of May, 1897.

Witness my hand and the seal of said court, at my office in Holton in said county this 20th day of May, 1897.

[SEAL.]

W. B. PRICE, *Clerk.*

23

Order of attachment, district court.

The National Bank of St. Marys vs. Eli G. Nadeau et al.

Issued May 20th, 1897.

Returnable May 30th, 1897.

Filed this 29th day of May, 1897.

W. B. PRICE, *Clerk.*

Serving order.....	\$.50
Taking inventory, — days.....	6.00
Appraisement of property.....	12.00
Mileage, — miles.....	5.00
Mileage, 100 miles.....	10.00
Total	33.50

Return consists of 21 pages of invoice of goods attached, &c.

24

Certificate of copy.

THE STATE OF KANSAS,

County of Jackson, ss:

I, W. B. Price, clerk of the district court of the first judicial district of the State of Kansas, sitting within and for the county aforesaid, do hereby certify the above and foregoing to be a true, full, and complete copy, with all the endorsements thereon, of order of attachment, except return of sheriff, in the therein-entitled cause as the same remains on file in my office.

Witness my hand and official seal, affixed at my office in Holton, this 27th day of Sept., A. D. 1897.

W. B. PRICE,
Clerk Dist. Court.

(Indorsed:) No. 3500. No. 7512. The National Bank of St. Marys, plaintiff, versus Eli G. Nadeau et al., defendants. Copy of order of attachment without return of sheriff. Filed Oct. 1st, 1897. Geo. F. Sharitt, clerk.

25

In district court, Jackson County, State of Kansas.

THE NATIONAL BANK OF ST. MARYS, PLAINTIFF,
vs.
ELI C. NADEAU, JOHN A. NADEAU, AND HENRY
B. ECKAM, copartners, as E. G. Nadeau, Son & Co.,
defendants.

Order.

Now, on this 7th day of June, 1897, on motion of the plaintiff in this the above-entitled action, and notice thereof having heretofore been duly given to said defendants, and it being made to appear that a large part of the property attached by the sheriff of Jackson County, Kansas, in the above-entitled action consists of live stock—to wit, cattle, horses, mules, and hogs—and that the cost of keeping said live stock so attached will be so great that it is for the interest of all parties to have the same sold.

It is therefore ordered by the court now here that all live stock attached in this action, except such as is attached subject to prior orders of attachment, issued in other actions, be sold by the sheriff of Jackson County, as upon execution, after such advertisement as is prescribed by law for the sale of personal property on execution. It is further ordered

26 that in making such sale the said sheriff proceed to sell said property in the manner following, to wit: The cattle shall be sold in parcels of not more than twenty head, the hogs in parcels of not more than twenty head, and the horses and mules either separately or in spans, as may to the sheriff appear most advantageous. All of said property to be so sold upon credit extending until the first day of November, 1897, with security to the approval of said sheriff. Each purchaser shall execute to said sheriff a promissory note for the amount of his purchase, with one or more sufficient sureties to the satisfaction of said sheriff, which note shall be substantially in the following form:

§———. ———, KANSAS, ———, 1897.

On or before the first day of November, 1897, we promise to pay to George N. Haas, as sheriff of Jackson County, Kansas, the sum of _____ dollars, at the National Bank of Holton, in Holton, Kansas, with interest thereon from this date until paid at the rate of 10 per cent per annum, if not paid at maturity.

Provided, however, that any purchaser may pay the amount of his purchase in cash instead of executing a note therefor.

Upon a precept therefor being filed, the clerk of said court will issue an order to the sheriff of said county, under his hand and seal, commanding the sale of said property pursuant to the terms hereof which order shall be returnable in 30 days from the date thereof.

O. K.

LOUIS A. MYERS, *Judge*.

(Endorsed on back as follows, to wit:) No. 3500, The National Bank of St. Marys vs. Eli G. Nadeau, et al. Journal entry for order of sale of live stock attached. Filed July 7, 1897. W. B. Price, clerk.

27 (Endorsed:) No. 7512. No. 3500. The National Bank of St. Marys, plaintiff, versus Eli G. Nadeau et al., defendants. Copy of journal entry for order of sale of live stock attached. Filed Oct. 1st, 1897. Geo. F. Sharitt, clerk.

28 In district court, Jackson County, State of Kansas.

THE NATIONAL BANK OF ST. MARYS, PLAINTIFF,	}
vs.	
ELI G. NADEAU, JOHN A. NADEAU, AND HENRY B. EKCAM, copartners as E. G. Nadeau, Son & Co.,	
defendants.	

Motion for an order directing sale of live stock attached.

And now comes the said plaintiff in this the above-entitled action and moves the Hon. Louis A. Myers, judge of said court, for an order

directing the sale of all live stock attached, in this the above-entitled action, except such as has been attached subject to some prior order of attachment, constituting a prior lien thereon. And plaintiff states the following grounds for said motion, to wit: That the cost of keeping and caring for said live stock will be so great that a sale thereof will be for the benefit of the parties.

HAYDEN & HAYDEN,
Attorneys for Plaintiff.

Affidavits, the papers and record in said action, and other evidence will be used on the hearing of this motion.

(Endorsed on back as follows:) The National Bank of St. Marys vs. Eli G. Nadeau, et al. Motion for an order directing the sale of live stock attached. Filed June 7th, 1897. W. B. Price, clerk.

29 *Certificate of copy.*

THE STATE OF KANSAS,
County of Jackson, ss:

I, W. B. Price, clerk of the district court of the first judicial district of the State of Kansas, sitting within and for the county aforesaid, do hereby certify the above and foregoing to be a true, full, and complete copy, with all the endorsements thereon of motion in the therein entitled cause as the same remains on file in my office.

Witness my hand and official seal, affixed at my office in Holton, this 27th day of Sept., A. D. 1897.

[SEAL.]

W. B. PRICE,
Clerk Dist. Court.

(Indorsed:) No. 7512. No. 3500. The National Bank of St. Marys, plaintiff, versus Eli G. Nadeau, et al., defendants. Copy of motion. Filed Oct. 1st, 1897. Geo. F. Sharitt, clerk.

30 In district court, Jackson County, Kansas.

THE NATIONAL BANK OF ST. MARYS, PLAINTIFF,	}	Motion.
<i>vs.</i>		
ELI G. NADEAU, JOHN A. NADEAU, AND HENRY		
B. Ekeam, copartners as E. G. Nadeau, Son & Co.,		
defendants.		

The defendant, Eli G. Nadeau, moves this court to discharge the attachment in the above-entitled cause, as to all the property levied upon and taken in said attachment, which belongs to said Eli G. Nadeau as an individual.

First. Because the said Eli G. Nadeau is an Indian and by birth a member of the Prairie Band of Pottawatomie Indians, residing upon the reservation belonging to said tribe, in said county, and at the time said attachment was levied owned and held said property on said reservation in his right as a member of said tribe, and the same having been produced and raised by him in his right as a member of said tribe from and upon the lands owned, occupied, used, and controlled exclusively by said

tribe, is tribal property and being produced, raised, and owned by him in his right as a member of said tribe, and in his possession on said reservation was not and is not subject to attachment, and was and is exempt from judicial process.

Second. Because the grounds set forth in the attachment affidavit made and filed in said action are not true, in so far as said affidavit relates and refers to said defendant, Eli G. Nadeau.

I. T. PRICE,
Attorney for Eli G. Nadeau.

(Indorsed on back:) National Bank of St. Marys vs. Eli G. Nadeau et al. Motion. Filed June 18, 1897. W. B. Price, clerk.

31 *Certificate of copy.*

THE STATE OF KANSAS,
County of Jackson, ss:

I, W. B. Price, clerk of the district court of the first judicial district of the State of Kansas, sitting within and for the county aforesaid, do hereby certify the above and foregoing to be a true, full, and complete copy, with all the endorsements thereon of motion in the therein-entitled cause as the same remains on file in my office.

Witness my hand and official seal, affixed at my office in Holton, this 27th day of September, A. D. 1897.

[SEAL.]

W. B. PRICE,
Clerk Dist. Court.

(Indorsed:) No. 7512. No. 3500. The National Bank of St. Marys, plaintiff, versus Eli G. Nadeau et al., defendants. Copy of motion. Filed Oct. 1st, 1897. Geo. F. Sharitt, clerk.

32 *Education circular No. 3.*

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, Sept. 9, 1897.

To agents and bonded superintendents.

SIR: The following amendments to the rules for the Indian school service, 1894, having been approved by the honorable Secretary of the Interior, is hereby promulgated:

"When notified by the superintendent of a reservation boarding school or the teacher of a day school on his reservation of the fact that a pupil enrolled at the agency on which the school is located has left the school without permission, the agent shall promptly return such pupil to the respective school. Should the parent, guardian, or person harboring the pupil fail or refuse to deliver him, the agency police and school employes, or either of them, are hereby directed to arrest and return such pupil under the orders of the agent. Agency police and school employes are also authorized and empowered to arrest and bring before the agent for suitable punishment any person or persons who may hinder them in the lawful performance of this duty. Parents, guardians, and other persons who may obstruct or prevent the agent from placing Indian children of

the reservation in the schools thereof shall be subject to like penalties: Provided, That this regulation shall not be construed as authorizing the removal of Indian children from their reservation to be placed in a school outside of such reservation without the consent of the parents or guardians of the children by required law to be first obtained.

33 "When an agent is notified of the return to his reservation of a pupil of a nonreservation school he shall take the necessary steps to inform himself as to the legitimacy of his return. Should he find that the pupil can not produce satisfactory evidence of proper authority for his return, a full report of all the facts must be promptly made to the Indian Office, and the superintendent of the school be notified thereof."

Very respectfully,
(Signed)

W. A. JONES, *Commissioner*.

POTTAWATOMIE & GT. NEMAHA AGENCY,

September 25th, 1897.

I hereby certify on honor that the foregoing is a true copy of the original letter from the Hon. Commissioner of Indian Affairs now on file in the office of this agency.

GEORGE W. JAMES,
U. S. Indian Agent.

(Endorsed:) No. 7512. Copy of letter from Commissioner of Indian Affairs. Filed Oct. 1st, 1897. Geo. F. Sharitt, clerk.

34 In the circuit court of the United States for the district of Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT,
vs.

THE PARKHURST-DAVIS MERCANTILE COMPANY,
a corporation organized under the laws of the State of Kansas; The National Bank of St. Marys, Kansas, a corporation organized under the national banking laws of the United States; J. K. Burnham, Thomas E. Hanna, A. H. Munger, Fred C. Stoepel, R. R. Missrer, Harry McWilliams, Henry L. Root, partners as Burnham, Hanna, Munger & Co.; J. Hamilton Bell & J. Henry Conrad, partners as Bell, Conrad & Co.; Thomas Page, George M. Haas; The State Bank of Holton, a corporation organized under the laws of the State of Kansas; The National Bank of Holton, a corporation organized under the banking laws of the United States, defendants.

Affidavit.

Eli G. Nadeau, being first duly sworn on his oath, deposes and says: That he is the same Eli G. Nadeau mentioned in the bill of complaint herein; that is and all his life has been a member of the Pottawatomie tribe of Indians, and belongs to what is known as the Prairie Band of said Pottawatomie tribe; that he was born in said tribe within

the limits of the State of Indiana, and has accompanied said tribe and lives and continued to live and abide with its people as a member of said tribe during his entire life; that he is now sixty-five (65) years old, and his present residence is, and during the happening of all the things hereinafter mentioned, was, and for a long time previously thereto, had been, on what is known as "The Diminished Reserve of the Pottawatomie tribe" within the limits of the County of Jackson and the

35 State of Kansas.

That the said John Nadeau named in said bill of complaint is his son, also a member of said Prairie band of Pottawatomie Indians, and a resident upon said reservation, and was such resident at all of the times hereinafter narrated, and ever has been such resident.

That said Pottawatomie tribe and said Prairie band of said Pottawatomie tribe have always been, and are now, under the guardianship, tutelage, and superintending control of the Government of the United States, and subject to all of the laws, and to all of the rules and regulations made by the Government of the United States, its Indian Bureau of the Interior Department, and all other departments and officials of the United States having dealings with the Indians generally.

That said tribe has always had with it, since the policy of the Government was to appoint Indian agents, an agent of the Government of the United States.

That said "diminished reserve" consists of a tract of land eleven (11) miles square, that is to say, a square tract of land eleven miles in length and eleven miles in breadth, upon which reside of said Prairie band about five hundred (500) persons—Indians. That said tract of land is all contiguous and occupied in proprietorship exclusively by said Indians; no white men have any title or claim of title to any part of said tract of land. That such was the case during all of the times covered by the events hereinafter narrated and herein material to be considered, and was the case at all times since about the year 1847. That the Indian

agent for said Prairie band now residing at said agency is George

36 W. James, who is also, in his official capacity, agent for the Kickapoos, abiding upon the reservation within the limits of Brown County, and the Sac and Fox, abiding upon the reservation within the limits of Brown County, and the Iowas, abiding upon the reservation within the limits of Doniphan County, all within the limits of the State of Kansas. That the said James has been such agent since his confirmation after his appointment by President McKinley. That prior to the agency of James the agent in charge of said Prairie band of Pottawatomie Indians was one L. F. Pearson, who continued in office during the greater portion of President Cleveland's last Administration. That for more than twenty-five (25) years said Prairie band, abiding upon said "Diminished Reserve," have had thereon established and in operation, for their benefit, a trader's store, either conducted by a member of the tribe as such or by a licensed trader of the United States, always under the superintendence and supervision of an Indian agent. That during all of said times said agency and said reservation have been subject to all of the acts and regulations of the Government of the United States restrictive of the intercourse of the white people with the Indians, and all persons desiring to come upon said reservation for the purpose of dealing in any

wise with any of the members of said tribe have been required to obtain permission from the Indian agent or be subject to be ejected summarily therefrom, and that such was the case at all of the times covered by the events hereinafter narrated.

37 That affiant and his said son John, together with one Henry Ekeam, for the purpose of carrying on a trader's store, and for the purpose of being licensed traders to trade with said Indians, had been lawfully authorized thereunto by the Commissioner of Indian Affairs, and lawfully authorized to transact a mercantile business on said reservation as Nadeau, Son & Co.; the said Henry Ekeam being a white man. That about the 15th of May, the said Henry Ekeam having collected large sums of money belonging to said Nadeau, Son & Co., as in the said bill of complaint alleged, and having incurred large liabilities in the name of said trading company of Nadeau, Son & Co., as aforesaid, embezzled of the funds of said company about eleven thousand (\$11,000.00) dollars, and having just previously thereto obtained from said National Bank of St. Marys, Kansas, five thousand (\$5,000.00) dollars by a pretended loan by said bank to said trading company; and of said National Bank of Holton the sum of five thousand (\$5,000.00) dollars by a pretended loan by said bank to said trading company; and of Morrill & Jones, Bankers, of Hiawatha, the sum of five thousand (\$5,000.00) dollars, as a pretended loan to said trading company, fled the country, and is now at large and a fugitive from justice.

38 That said National Bank of St. Marys well knew that they had no right or authority to loan or pretend to loan or furnish to said Ekeam the said sum of five thousand dollars in the name of or for, or on account of, said trading company; that affiant is informed and verily believes, and therefore charges the fact to be, that said bank furnished money if it furnished said money at all, to said Ekeam, furnished it upon a check drawn by said Ekeam in the name of said trading company; that the said Ekeam had but a small interest in said trading company and was a comparative stranger in the country; that he had not been in Kansas more than twenty (20) months at the time of his flight as a fugitive from justice, all of which said bank well knew; that the said

bank's only purpose in furnishing said money, if said money was really furnished by said bank to said Ekeam, as is claimed, was to fasten said amount as a liability upon and against said trading company and this affiant in particular; that said bank well knew, as all persons doing business in the vicinity of St. Marys knew, that this affiant was the subject of whatever credit would attach to said trading company financially; that affiant had long dealt with the people upon said reservation and was known to all of the people generally of St. Marys, and was recognized as a person whose credit was good and who would pay any obligation which he might incur; that the said sum of five thousand dollars was not necessary for any purpose, nor was the same obtained by said Ekeam to be used for any purpose pertaining to the business of said trading company; that all of said facts were known to said bank, or might have been known to said bank upon ordinary inquiry; that said loan, or pretended loan, of five thousand dollars was an extraordinary proceeding upon the part of said bank, carried out with a mere stranger and adventurer in the name of said trading company without authority therefrom

and without any attempt to procure any security or inquiry concerning the same by said bank; that affiant and said trading company utterly repudiated said claim as an obligation upon them, either legal or moral, and ask that the Government of the United States see to it that they are not oppressed with it and other fraudulent claims.

That said pretended loan of five thousand dollars by the National Bank of Holton was made under circumstances substantially
39 similar to the circumstances under which said alleged loan was made by the National Bank of St. Marys; that said National Bank of Holton well knew that said Ekeam was then and there a stranger in the country and a newcomer, without means and without credit, and then and there knew that his interest in said trading company was but little more than nominal, he having put in but seven hundred and fifty (\$750.00) dollars, and being himself without credit, assets, or resources otherwise. Said National Bank then and there also well knew that this affiant had long been a resident of said reservation, doing business upon said reservation with the Indians, and that his credit was regarded as good, and that the credit of said trading company was based chiefly upon the reputation of affiant for integrity and his credit as a man who would faithfully discharge every obligation that he might incur; that affiant had not for many years had any dealings with the said National Bank of Holton, and said trading company since its formation had never had any dealings with the said National Bank of Holton prior to said alleged and pretended loan to said Ekeam; that a few days after said pretended loan to said Ekeam said bank refused to cash a check drawn upon it by affiant for the sum of twenty (\$20) dollars, which affiant had so drawn by accident, but which fact was not known to said bank, and this before it was known that said Ekeam had embezzled any money or had left the country.

That about three (3) months prior to the pretended loan of said National Bank of Holton aforesaid of said five thousand dollars to said Ekeam one James V. Blandon, who occasionally did business with said bank, offered to said bank a note of five hundred (\$500) dollars, signed by affiant and his said son, as collateral security
40 for a loan of some two hundred (\$200) dollars, which was rejected; that there were no circumstances or facts from which said bank had any right to assume or to believe that it should extend a credit of five thousand dollars to said Ekeam as against said trading company; that said sum so pretended to be loaned by said bank was not, as said bank well knew, necessary or required or intended to be used in anywise in the business of said trading company, and neither said sum or any part thereof ever was so used, but the same was wholly appropriated and embezzled by said Ekeam; that prior to said pretended loan to said Ekeam said bank had, without the knowledge of affiant, been supplying said Ekeam with small sums of money from time to time, with which to make loans to Indians upon said reservation at exorbitant rates, running as high as forty (40%) per cent, and said bank and said Ekeam divided the profits thereon, all of which affiant has learned since the absconding of the said Ekeam, and that said bank is now claiming that affiant is liable to it for said sums so advanced to said Ekeam; that the purpose of said bank in making said pretended loan of five thousand

dollars was to fasten said amount upon and against said trading company and affiant and to oppress and break up and destroy affiant particularly.

That said pretended loan of five thousand dollars by said National Bank of St. Marys, Kansas, constitutes the principal sum claimed by said bank in said action against affiant and others mentioned in said bill; that there is also included in the same the sum of one thousand dollars borrowed by said Ekeam in May, 1896, without the knowledge or consent of affiant, and all which affiant knew nothing at all about

41 until after said Ekeam had absconded; and affiant says that he had never been requested to honor any such obligations until after the absconding of said Ekeam.

That the said pretended loan to said Ekeam of said five thousand dollars by Morrill & Janes, of Hiawatha, was made under circumstances substantially similar in all respects to the circumstances under which said other pretended loans hereinbefore referred to were made, except that affiant does not charge that said Morrill & Janes had any complicity with the said Ekeam in loaning money to the said Indians, but that said loan was recklessly and improvidently made to a mere stranger and under circumstances under which *which* said bank were not authorized or had any reason to rely upon the credit of affiant or of said trading company. That said sum so borrowed from Morrill & Janes was not necessary for any purpose in connection with the business of said trading company or of Ekeam & Company, who were doing business at Reserve, Kansas, being the place of abode of the Sac and Fox Indians; and said Ekeam & Company, consisting of said Ekeam & affiant and William C. Margrave, a member of said Sac & Fox tribe, which said trading company were licensed traders licensed by the United States. That no one was authorized by said trading company to draw any check or obligation of said company except William C. Margrave, yet nevertheless said Morrill and Janes recklessly and improvidently and without due consideration or care loaned said sum of money to said Ekeam upon a check or note drawn, as affiant is informed and believes, in the name of said trading company as licensed traders as aforesaid. But affiant says that it is due to Morrill & Janes to say that they have prosecuted no action against him, and he makes known this transaction to the court for the

42 purpose of showing the manner in which said Ekeam was conducting his nefarious and criminal enterprises and his expectation of enriching himself by exploiting the credit of this affiant.

That affiant has no desire, nor has he sought the protection of the United States for the purpose, of avoiding or evading any just or lawful obligation which ought to rest upon him if he was under no legal disability; that he asks no exemptions from honest claims, even if it be legally in his power so to ask; that he invokes the protection of the United States Government not for the purpose of wronging or defrauding any legitimate or honest claimant, and it is his desire that all such shall be paid if within the power of his property or estate so to do; that prior to the filing of the bill herein he sent to his creditors a circular letter proposing to have a meeting of creditors to appoint a trustee to take charge of all of his business and property for the benefit of all of his honest and bona fide creditors, a copy of which letter is hereto attached, made a part hereof, and marked "Exhibit A."

That he is ready and willing to submit himself to this honorable court in any proper cause, suit, or proceeding wherein he is under the protection of the United States, and to submit to any order which this honorable court may make respecting the course to be pursued with reference to the application of his estate and property to the payment of his honest debts, whether by the appointment of receiver or otherwise, but he also asks the right and the privilege of proceeding under the protection of and guidance of the United States to the realization of all rights and claims coming to him, whether for damages or otherwise, and from
43 all persons whomsoever. Affiant swears that the facts foregoing, so far as the same are known to him, are true, and so far as he states the same upon information and belief he believes to be true.

And further affiant sayeth not.

ELI G. NADEAU.

STATE OF KANSAS, *County of Shawnee, ss:*

Subscribed and sworn to before me, a notary public within and for the county of Shawnee and the State of Kansas, this 22nd day of September, A. D. 1897.

[SEAL.]

W. G. MILAM, *Notary Public*.

(My commission expires the 3rd day of March, 1901.)

(Endorsed:) No. 7512. U. S. of America vs. The Parkhurst-Davis Mercantile Co. et al. Affidavit of Eli G. Nadeau. Filed Oct. 1st, 1897. Geo. F. Sharitt, clerk.

44 In the circuit court of the United States for the district of Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT,	}
<i>vs.</i>	
PARKHURST-DAVIS MERCANTILE COMPANY	
et al., defendants.	}

Affidavit.

George W. James, of lawful age, being first duly sworn, on his oath, deposes and says: That he is at present, and ever since the 1st day of July, 1897, has been, the lawfully appointed and acting Indian agent in charge of the Prairie band of Potawatonic Indians, located within the limits of the county of Jackson, State of Kansas, and also agent for the Kickapoos, Iowas of Brown County; Sac and Fox of Kansas and Nebraska, and Chippewa and Christian Indians situated in Franklin County, Kansas. Affiant further states that he is a member of the Prairie band of the Pottawatonic tribe, and was for many years clerk at the U. S. agency of the Prairie band of Pottawatonic Indians and other Indians, and has been transacting business for said Prairie band of Pottawatonic Indians for thirty years (30), and is well acquainted with the reservation and with the Indians of said band. Affiant is acquainted with Eli G. Nadeau, named in these proceedings, and knows that said Eli G. Nadeau is, and at the commencement of this suit was, and has always been, a member of said Prairie band of Pottawatonic Indians since affiant had knowledge of said band.

45 That he knows that said Eli G. Nadeau resides, and at the commencement of this suit did reside, and for many years prior thereto resided, on the reservation of said Prairie band of Pottawatomie Indians, within the limits of Jackson County, Kansas.

That said Eli G. Nadeau has been constantly treated and dealt with by affiant and other Indian agents as a member of said tribe and a ward of the U. S.; that he has received his proportion of the annuity paid by the U. S. to said tribe, and of all uses of implements, and has shared equally with the other Indians in the rights of the awards of the wheelwright and blacksmith shops, and has in all other respects been treated as other Indians of the band, receiving his full proportion of all things to which the band was entitled by the U. S.

That his name appears upon the annuity pay rolls and all other records pertaining to and evidencing membership of said tribe. And affiant further knows that said Eli G. Nadeau has been for many years pasturing and doing business upon the surplus lands of the band on the said reservation. Affiant also states that Indians of said Prairie band of Pottawatomie Indians, occupying said reservation within the limits of said Jackson County, have always been and are now kept under the strict surveillance and regulations of the U. S. as applies to other Indians occupying reservations not of the Five Civilized Tribes of the Indian Territory throughout the U. S., and no regulations have been made by the Government especially for said band, said band having been constantly subjected to the general regulations that apply to other Indian tribes throughout the U. S.

That there are, and at the commencement of this suit were, five hundred and eighty-seven (587) members of said Prairie band of Pottawatomie Indians occupying said reservation; that said Prairie band

46 of Pottawatomie Indians has never been in any way or manner released, liberated, or emancipated from the guardianship and control of the U. S., which said guardianship and control is exercised now in as full a manner over said Indians and over said reservation and over every member of said tribe as it ever has been at any time.

That under the treaties, laws, and regulations of the U. S. with and for said Indians, this affiant, as agent, has, and at the commencement of this suit had, and since the 1st day of July has had, and prior to that his predecessor had, full control of said reservation and of said Indians, subject to and under the laws and regulations of the U. S., and limited by the rights of said Indians evidenced by said laws and treaties. That he has, and all the while has had, full right, and it has been his duty to exclude from said reservation all intruders and persons entering thereon not members of said tribe, without permission or license so to do from the proper authority. That the title of said lands constituting said reservation is in the U. S. and held in trust by the U. S. for said Indians.

That the funds of said tribe, being in round numbers six hundred thousand dollars, is held in trust by the U. S. for said tribe, and the interest thereon paid from time to time by the U. S. to the members of said tribe, as stipulated in the several treaties with said tribe.

That no persons are allowed, except licensed traders, to trade with said Indians. And that the store in controversy in this suit was a store conducted under the surveillance and oversight of the Indian agent by licensed traders, and not otherwise.

47 That said reservation is subject to all of the police regulations authorized by the laws and regulations of the U. S. for Indian tribes other than the said Five Nations, and there is at present and has been upon said reservation a regularly organized reservation Indian police for the government of said reservation, approved by the Department of the Interior; all the individuals comprising the force are under charge and command of this affiant. The said police force is paid by the U. S.

That the entire educational procedure of said Prairie band is under the control and subject to the superintendence of the Government of the U. S. That the school buildings proper consist of dormitory, school and assembly building, and laundry and proper outbuildings, costing thirty thousand dollars. That the plans of these buildings were drawn in the architect's department of the Office of Indian Affairs at Washington. And said buildings were constructed under the superintendence of an architect appointed by the U. S. Teachers for said school and all other employes for said school, numbering 13, are employed and assigned under civil service rules and under orders from Washington.

That there are upon said reservation a blacksmith and a wheelwright shop at which the said members of said tribe get all their work done pertaining to said shops under the superintendence of the U. S. The shops are conducted by men appointed by the U. S. under civil service rules.

That it is the practice of all members of said tribe, when intending to go off of said reservation for any length of time, to apply for permission and leave so to do, as required by the rules and regulations of the U. S.

48 That it is the duty and practice of said affiant at said agency, and has been the duty and practice of the agent, under the rules and regulations made by the U. S., to report to the Government the number of acres of land cultivated upon said reservation, the number of acres under fence on said reservation, the number of houses upon said reservation, the number of horses, cattle, sheep, hogs, and all other live stock owned by members of said tribe on said reservation, and also the numbers of Indians who can read and write and the number who can speak the English language.

That the Indians on said reservation are under the complete control, in every respect, of the U. S. of America, under the laws, rules, and regulations of the U. S. and Indian treaties; and the Indians themselves, on said reservation, constantly deny and repudiate any other power than the U. S.

Affiant further states that the pamphlet or book now held in the hand of Mr. Overmyer, entitled "Regulations of the Indian Office, with appendix, the forms used, etc.," contains the regulations by which he, as agent, as aforesaid, is governed entirely in the transaction of his said duties as agent for said Indians. And affiant has written his name and the words "Exhibit A" at the top of said pamphlet.

GEORGE W. JAMES.

Subscribed and sworn to before me this 27th day of September, 1897.

[SEAL.]

W. B. PRICE,

Clerk of District Court, Jackson County, Kansas.

(Indorsed:) No. 7512. U. S. of America, complainant, vs. Parkhurst-Davis Mercantile Co. et al., defendants. Affidavit of George W. James. Filed Oct. 1st, 1897. Geo. F. Sharitt, clerk.

49 In the circuit court of the United States for the district of
Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT,
vs.
PARKHURST-DAVIS MERCANTILE COMPANY
et al., defendants.

Affidavit.

John A. Nadeau, being first sworn, on his oath deposes and says: That he is the John A. Nadeau named in the bill of complaint herein, and son of Eli G. Nadeau, named therein; that he is a member of the Prairie band of Pottawatomie Indians and always has been, and resides and abides, and ever has so resided, upon the reservation of said band, within the limits of the county of Jackson, State of Kansas; that he is acquainted with George Linscott, cashier of the National Bank of Holton, one of the parties to one of said actions in the bill of complaint; that in April, 1897, at Holton, in said bank, affiant had a conversation with said George Linscott, in which said Linscott informed him, affiant, that said bank was loaning money to the Indians, through said H. B. Eckam, named in the bill of complaint, and that said Eckam was furnishing customers and that they were whacking up in the interests. And affiant has learned and been informed and verily believes, and

therefore charges the fact to be, that said bank and said Eckam
50 were so, as aforesaid, loaning individual Indians small sums of
money and charging them exorbitant rates of interest, or so-called
interest, amounting in some cases sums which would amount to 80 per
cent per annum.

And affiant is informed and understands the fact to be that said monies
so loaned by said bank, or so furnished to said Eckam to be loaned to
said Indians as aforesaid, has been charged to the firm of Nadeau, Son &
Co., and that said bank claims the right to hold said company for said
sum. As to the matters hereinbefore stated that are within the affiant's
knowledge, he swears that the same are true, and as to matters stated
upon information and belief, he believes them to be true.

The only notice of summons ever served upon this affiant in any of the
cases referred to in the bill of complaint herein were alleged copies of
summons left at his residence upon the reservation.

JOHN A. NADEAU.

Subscribed and sworn to before me, a notary public in and for the
county of Shawnee, State of Kansas, this 22nd day of September, A. D.
1897.

[SEAL.]

F. J. ELY, *Notary Public.*

(My commission expires the 13th day of July, A. D. 1899).

(Indorsed:) No. 7512. The United States vs. Parkhurst-Davis Mercantile Co. et al. Affidavit of John A. Nadeau, filed Oct. 1st, 1897. Geo. F. Sharitt, clerk.

51 In the circuit court of the United States for the district of
Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT	}
<i>vs.</i>	
THE PARKHURST-DAVIS MERCANTILE COMPANY	
et al., defendants.	

Affidavit.

James V. Blandin, being first duly sworn, on his oath deposes and says: That he is a member of the Prairie band of Potawatomie Indians, and a resident upon said reservation, within the limits of Jackson County, State of Kansas; that the several writs of attachment served, or pretended to be served, in the several actions in the bill of complaint set forth and described were served upon said reservation, the said property so attached being seized where it was situated on said reservation.

And affiant further says that he is well acquainted with Eli G. Nadeau and John A. Nadeau, and knows that they are now and have been members of said Prairie band of Potawatomie tribe of Indians; that he is fifty years of age, and for thirteen years last past has acted as interpreter for said Indians and for the United States at said agency.

And affiant says that sometime during the year 1896, at the city of Holton, and at said National Bank of Holton, he presented note
52 executed by said Eli G. Nadeau and John A. Nadeau for \$500.00 as collateral security for a loan of \$200.00 from said bank, and that said note was then and there refused as such collateral security by said bank.

JAMES V. BLANDIN.

Subscribed and sworn to before me, a notary public, this 22nd day of September, A. D. 1897.

[SEAL.]

F. J. ELY, *Notary Public.*

(My commission expires the 13th day of July, 1899.)

(Indorsed:) No. 7512. The United States vs. Parkhurst-Davis Mercantile Co. et al. Affidavit of James V. Blandin. Filed Oct. 1st, 1897. Geo. F. Sharitt, clerk.

53 In district court, Jackson County, State of Kansas.

THE NATIONAL BANK OF ST. MARYS, PLAINTIFF,	}
<i>vs.</i>	
ELI G. NADEAU, JOHN A. NADEAU, AND HENRY	
B. Ekeam, copartners as E. G. Nadeau, Son & Co.,	
defendants.	

Before Hon. Louis A. Myers, judge of said court, at chambers in the court room of the court-house in the city of Oskaloosa, county of Jefferson, and State of Kansas.

Order.

Now, on this 27th day of May, 1897, came the said plaintiff in this the above-entitled action by its attorneys, Hayden and Hayden, and also

came the said defendant Eli G. Nadeau, in person as well as by his attorney, I. T. Price, and the defendant John A. Nadeau by his attorney, I. T. Price; thereupon the said plaintiff presents its motion for an order directing the sale of live stock attached in the above-entitled action, together with notice that said motion would be made at this time and place before the undersigned, judge of said court, and proof of due service of said notice on all of the defendants in said action; and thereupon, on application of said defendants, Eli G. Nadeau and John A. Nadeau, by their attorney, I. T. Price, it is ordered that the further hearing of said motion be and the same is hereby adjourned until the 7th day of June, 1897, at which time said motion will be heard in the district court of Jackson County, State of Kansas.

LOUIS A. MYERS,
Judge of said Court.

(Endorsed:) No. 7512. 3500. The National Bank of St. Marys, plaintiff, vs. Eli G. Nadeau et al., defendants. Order. Filed Sept. 21, 1897. W. B. Price, clerk.

54 *Certificate of copy.*

THE STATE OF KANSAS,
County of Jackson, ss:

I, W. B. Price, clerk of the district court of the first judicial district of the State of Kansas, sitting within and for the county aforesaid, do hereby certify the above and foregoing to be a true, full, and complete copy, with all the endorsements thereon, of order in the therein-entitled cause as the same remains on file and of record in my office.

Witness my hand and official seal, affixed at my office in Holton, this 21 day of September, A. D. 1897.

[SEAL.]

W. B. PRICE,
Clerk District Court.

(Endorsed:) No. 7512. No. 3500. The National Bank of St. Marys, plaintiff, versus Eli G. Nadeau et al., defendant. Copy of order. Filed Oct. 1, 1897. Geo. F. Sharitt, clerk.

55 In the district court of Jackson County, State of Kansas.

THE NATIONAL BANK OF ST. MARYS, PLAINTIFF, }
vs. }
ELI G. NADEAU, JOHN A. NADEAU, AND HENRY }
B. Ekeam, partners as E. G. Nadeau, Son & Co., }
defendants. }

Before Hon. Louis A. Myers, judge of the above court, at chambers in the city of Valley Falls, in the county of Jefferson, in the State of Kansas, on Saturday, June 19, 1897.

Order.

This day came the said defendant, Eli G. Nadeau, in person as well as by I. T. Price, his attorney, and also came the said plaintiff, by *by* Hayden & Hayden, its attorneys, and thereupon the motion of the said defendant, Eli G. Nadeau, to dissolve and discharge the attachment heretofore levied

in this action, as against certain property of the said Eli G. Nadeau, came on for hearing, and, after hearing the evidence and arguments of counsel, and being fully advised, the said motion to dissolve and discharge said attachment is overruled and denied, to which decision the said defendant, Eli G. Nadeau, at the time duly excepted.

It is therefore now here ordered and adjudged that said motion to dissolve and discharge said attachment be and the same is overruled and denied, to which ruling and decision the said Eli G. Nadeau at the time duly excepted.

LOUIS A. MYERS, *Judge*.

56

Certificate of copy.

THE STATE OF KANSAS,

County of Jackson, ss:

I, W. B. Price, clerk of the district court of the first judicial district of the State of Kansas, sitting within and for the county aforesaid, do hereby certify the above and foregoing to be a true, full, and complete copy, with all the endorsements thereon of journal entry recorded in Journal I, page 380, in the therein-entitled cause as the same remains on file and of record in my office.

Witness my hand and official seal, affixed at my office in Holton, this 21st day of September, A. D. 1897.

[SEAL.]

W. B. PRICE,
Clerk District Court.

(Indorsed:) No. 7512. No. 3500. The National Bank of St. Marys, plaintiff, versus Eli G. Nadeau et al., defendants. Copy of order overruling motion to dissolve attachment. Filed Oct. 1st, 1897. Geo. F. Sharitt, clerk.

57 In the circuit court of the United States for the district of Kansas.

UNITED STATES OF AMERICA, COMPLAINANT,

vs.

THE PARKHURST-DAVIS MERCANTILE CO.,

The State Bank of Holton, The National Bank
of Holton et al., defendants.

Now comes the defendants, The State Bank of Holton and The National Bank of Holton, by Hayden & Hayden and by Valentine, Godard & Valentine, their solicitors, and enter their appearance in the suit; and to the complainant's bill of complaint herein.

To the clerk of said court:

Enter the above in the order book in equity of said court.

HAYDEN & HAYDEN, and
VALENTINE, GODARD & VALENTINE,
Solicitor for Defendant.

58 (Endorsed:) No. 7512. United States of America vs. Parkhurst-Davis Mer. Co., State Bank of Holton, et al. Appearance. Filed Oct. 4, 1897. Geo. F. Sharitt, clerk.

59 In the circuit court of the United States for the district of Kansas.

UNITED STATES OF AMERICA, COMPLAINANT,	} No. 7512.
<i>vs.</i>	
THE PARKHURST-DAVIS MERCANTILE COMPANY	
et al., defendants.	

Now come the defendants The Parkhurst-Davis Mercantile Company and Thomas Page, by Dobbs & Stoker and Hayden & Hayden, their solicitors, and enter their appearance in the suit; and to the complainant's bill of complaint herein.

To the clerk of said court:

Enter the above in the order book in equity of said court.

DOBBS & STOKER and

HAYDEN & HAYDEN,

Solicitors for Defendants,

The Parkhurst-Davis Mercantile Company and Thomas Page.

60 (Endorsed:) No. 7512. United States of America vs. The Parkhurst-Davis Mercantile Company, et al. Appearance of The Parkhurst-Davis Mercantile Company and Thomas Page. Filed Oct. 4, 1897. Geo. F. Sharitt, clerk.

61 In the circuit court of the United States for the district of Kansas.

UNITED STATES OF AMERICA, COMPLAINANT,	} No. 7512.
<i>vs.</i>	
THE PARKHURST-DAVIS MERCANTILE COMPANY	
et al., defendants.	

Now come the defendants The Parkhurst-Davis Mercantile Co., and all other defendants except Burnham, Hanna, Munger & Co., by Hayden & Hayden, their solicitors, and enter their appearance in the suit; and to the complainant's bill of complaint herein.

To the clerk of said court:

Enter the above in the order book in equity of said court.

HAYDEN & HAYDEN,

Solicitors for Defendants,

other than Burnham, Hanna, Munger & Co.

62 (Endorsed:) No. 7512. United States of America vs. The Parkhurst-Davis Mercantile Company et al. Appearance of all defendants other than Burnham, Hanna, Munger & Co. Filed Oct. 4, 1897. Geo. F. Sharitt, clerk.

63 In the circuit court of the United States, district of Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT,	}
<i>v.</i>	
THE PARKHURST-DAVIS MERCANTILE COMPANY	
et al., defendants.	

Now, to wit, on this 2nd day of October, A. D. 1897, this case came on to be heard upon the application of said complainant for a temporary injunction against said defendants, as prayed in its bill of complaint filed

herein. After hearing the evidence adduced by said complainant and by the defendants, the court finds that said temporary injunction ought not to be granted.

It is therefore ordered that the application of the complainant herein for a temporary injunction in the above-entitled action be, and the same is hereby denied.

C. G. FOSTER, *Judge*.

(Endorsed:) No. 7512. United States of America vs. The Parkhurst-Davis Mercantile Company et al. Order. Filed Nov. 15, 1897. Geo. F. Sharitt, clerk.

64 In the circuit court of the United States of America, district of Kansas, first division.

UNITED STATES OF AMERICA,
District of Kansas, First Division, ss:

At a term of the circuit court of the United States of America begun and held at the city of Topeka, in said district, on Monday, the 22nd day of November, A. D. 1898, proceedings were had and appear of record as follows, to wit:

MONDAY, November 22nd, 1897.

UNITED STATES OF AMERICA, COMPLAINANT,	} No. 7512.
<i>vs.</i>	
THE PARKHURST-DAVIS MERCANTILE CO. ET AL., defendants.	

Leave is hereby given complainant by the court to file amended bill herein.

65 In the circuit court of the United States for the district of Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT,	}	Amended bill of complaint.
<i>vs.</i>		
THE PARKHURST-DAVIS MERCANTILE COMPANY, a corporation organized under the laws of the State of Kansas, The National Bank of St. Marys, Kansas, a corporation organized under the national bank- ing laws of the United States, J. K. Burnham, Thomas E. Hanna, A. H. Munger, Fred C. Stoepel, R. R. Missrer, Harry McWilliams, Henry L. Root, partners as Burnham, Hanna, Munger & Co., J. Hamilton Bell & J. Henry Conrad, partners as Bell, Conrad & Co., Thomas Page, George M. Haas, The State Bank of Holton, a corporation organized under the laws of the State of Kansas, The National Bank of Holton, a corporation organ- ized under the banking laws of the United States, defendants.		

Comes now the complainant, the United States of America, and by leave of court files this, its amended bill of complaint herein, that is to say:

The United States of America, by I. E. Lambert, United States attorney for the district of Kansas, brings this, its bill of complaint, against

The Parkhurst-Davis Mercantile Company, a corporation, The National Bank of St. Marys, Kansas, a corporation, J. K. Burnham, Thomas E. Hanna, A. H. Munger, Fred C. Stoepel, R. R. Missrer, Harry McWilliams, Henry L. Root, partners as Burnham, Hanna, Munger & Co., J. Hamilton Bell & J. Henry Conrad, partners as Bell, Conrad & Co., Thomas Page, George M. Haas, The State Bank of Holton, a corporation, The National Bank of Holton, a corporation, and thereupon your orator complains, and says:

66 That by many treaties, duly proclaimed and yet in force, between the United States and the Pottawatomie tribe or nation of Indians there was set apart a reservation for said Indians in the county of Jackson, State of Kansas, for the sole and exclusive use and possession of the Prairie band of Pottawatomie Indians. That by the terms and provisions of said treaties it is provided that said Prairie band of Pottawatomie Indians shall remain on said reservation under the care and parental protection of your orator, and that the United States will preserve the personal and property rights of said Indians from the encroachments of white men and from the encroachments and intrusions of all citizens of the United States and of all other intruders and persons whomsoever without license or permission of the United States. That by the provisions of said treaties and by the laws and general policy of the Government of the United States the relation of guardian and ward has for many years subsisted, and still subsists, between said tribe of Indians and your orator. That by the terms of said treaties and by the provisions of the acts organizing the Territory of Kansas and admitting the State of Kansas into the Union, the said reservation, so set aside, and since and now in the possession of said Prairie band of Pottawatomie Indians, was excluded from the operation of the laws of Kansas as against said Indians upon said reservation. That by the act of Congress which admitted Kansas into the Union it was expressly provided, among other things, as follows, to wit:

"That nothing contained in the said constitution respecting the boundary of said State shall be construed to impair the rights or person or property now pertaining to the Indians of said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with such Indian tribe, is not, without the consent of such tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the State of Kansas, until said tribe shall signify their assent to the President of the United States to be included within said State, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights by treaty, law, or otherwise, which it would have been competent to make if this act had never passed."

That said Prairie band of Pottaw'omie Indians has never in any manner consented or signified to the President of the United States that any of the rights or person or property formerly pertaining to the members of said tribe should be extinguished, nor have they ever consented that they or their said reservation should be governed or controlled by the

laws of the State of Kansas, nor that such laws should be in force as against them upon said reservation; nor has the Government of the United States, acting for such Indians, or otherwise, ever consented that the status of such reservation, or the status of the Indians occupying it (as such status existed on the admission of Kansas into the Union), should be in any way changed or modified; or that the authority of the United States to make or enforce any regulation respecting such Indians, their lands, property, or other rights by treaty, law, or otherwise, which it would have been competent to make if said act had never passed, should be in any way changed, diminished, or modified.

And your orator, further complaining, shows to the court that in pursuance of its treaty obligations with said tribe of Indians, and of its laws, usages, and regulations, it has established, and for many years has maintained, and is now maintaining, an Indian agency for the government and protection of said Prairie band of Pottawatomie Indians in accordance with the various treaties to which said tribe or band of

Indians is a party, and pursuant to various acts of Congress, passed
68 from time to time, regulating the intercourse between the Government and the Indian tribe. That pursuant to law and in the performance of its duty to said tribe of Indians the Government has appointed and paid, and is now employing and paying, an agent who is in charge of said Indian tribe and of each of the members of said tribe. And in like performance of its duty, and pursuant to law, has authorized and empowered sundry persons to transact mercantile and other business with the individual members of said tribe of Indians, but which said business has been always conducted on said reservation, and under the supervision and subject to the laws, usages, rules, and regulations of the Government of the United States in such cases.

That said Indian tribe, to wit, said Prairie band, has since the proclamation of said treaties maintained, and is now maintaining, a tribal organization; and said tribe has at all times maintained and is now maintaining itself as a distinct community not subject to the laws of Kansas, nor have the authorities of the said State of Kansas heretofore sought to subject said tribe, or the members thereof, to the laws of said State while upon said reservation, or to control any of their rights of property while said Indians remained and abided upon said reservation. But said band (tribe) have ever been, and now are, while upon said reservation remaining and abiding in said tribal relation, under the exclusive protection and care of the United States, as an independent people, individually and collectively.

That said reservation is what is known as "The diminished reserve," lying and being within the limits of the county of Jackson, of the State of Kansas, and consisting of a tract of land eleven miles in length and eleven miles in breadth. That none of the lands in said reservation have
69 ever been subject to taxation by the State or by the municipal authorities of the State of Kansas. Nor has said State of Kansas, or the said county of Jackson, through their constituted authorities, ever attempted or pretended to exercise the right to tax said lands or to levy taxes upon the persons or the property of said Indians so residing and abiding upon said reservation. Nor have said Indians ever in anywise or in any respect, while so abiding and residing upon said reservation, ever

participated in or enjoyed any of the constitutional or legal rights or privileges of citizens or inhabitants of said State, but have lived apart from the people of said States as completely, as a people, as if their said reservation lay beyond the limits of the said State of Kansas. That the Government of the United States has assumed over the said Indians that same full measure of control, guardianship, regulation, and supervision as to their persons and their property which it assumes and exercises over the other Indians upon reservations who maintain their tribal relations and whose independence of said laws have always been recognized and confessed. That the said United States, under its said agent, keeps and maintains, and has ever kept and maintained, upon said reservation, Indian police; that through its said agent, and under its laws and regulations, and through and by its said Commissioner of Indian Affairs, the United States has exercised, and now exercises, its complete guardianship over every one of the members of said tribe abiding upon said reservation. The said Government of the United States enforces and keeps alive, at its discretion, all of the rules and regulations which its Indian Department has promulgated or its laws have provided for relating to intercourse between the Indians upon said reservation and

70 the white people and others living, abiding, and being in said State. That the said Government of the United States assumes the right and exercises, at its discretion, the right through its agent to absolutely keep said Indians on said reservation, and forbids them from leaving the same except with permission of said agent. That the United States in like manner forbids the inhabitants and others, being and abiding in said State, from going upon said reservation to trade, or otherwise hold intercourse with said Indians except by special leave granted through said agent. That the United States maintains a system of education for said Indians upon said reservation, and in every way exercises its guardianship completely over said Indians. That the United States, in pursuance of said treaties and said laws, has held, and now holds, all the funds of said Indians in trust for said Indians, which funds amount to six hundred thousand dollars; and that in pursuance of the general policy of the United States in the matter of the education of said Indians, school buildings have been erected on said reservation for said Indians, consisting of dormitory, school and assembly building, and laundry and proper outbuildings, costing thirty thousand dollars. That the plans for these buildings were drawn in the architect's office in the department of Indian Affairs, at Washington, and said buildings were constructed under the superintendence of an architect appointed by the United States. That teachers for said school and all other employes for said school, numbering thirteen, are employed and assigned under the civil-service rules and under orders from Washington. That there is maintained, under the

71 supervision and control of the United States, a blacksmith shop and wheelwright shop on said reservation, at which the said members of the said tribe get all their work done which needs to be done at such shops, under the superintendence of the United States, the said shops being conducted by persons appointed by the United States under civil-service rules. That it is the constant practice of members of said tribe, when intending to go off said reservation for any length of time, to

apply for permission and leave so to do, as required by the rules and regulations of the United States.

The said agent in charge of said reservation has been required to, and has, reported to the Government from time to time the number of acres of land cultivated upon said reservation, the number of acres under fence on said reservation, the number of houses upon said reservation, the number of horses, cattle, sheep, hogs, and all other live stock owned by members of said tribe on said reservation, and the number of Indians who can read and write, and the number who can speak the English language upon said reservation.

That there has been maintained, and is at all times maintained upon said reservation, a post trader's store, conducted by licensed traders, licensed by the United States to trade with and sell goods to said Indians, under the supervision and superintendence of the said agent and according to the rules and regulations of the United States Government upon that subject.

And the said Indians receive annuities and sustenance from the United States, according to their deserts and needs, as do other Indians upon reservations. That, although the lands of said Indians have been in part apportioned and allotted to the individual Indians, and although said Indians, including said Eli G. and John A. Nadeau, occupied 72 and resided upon ever since said allotment occurred on the day of , their said land, so divided and allotted in severalty and by them respectively selected, and to which trust patents for their benefit respectively have been issued in the name of the United States to be sold by the United States in trust for said Eli G. and John A. Nadeau, respectively, for twenty-five years from the date thereof, as provided for in section five (5) of the act of Congress of Feb. 8th, 1887, copies of each of which trust patents are hereto attached, marked respectively Exhibits A & B. Yet the said Indians, including said Eli G. and John A. Nadeau, have also enjoyed the surplus lands of said tribe upon said reservation, and the title to said lands which have been so allotted has been, and is, and for twenty years to come will be, held by the United States in severalty in trust for said Indians, and since said allotment, and in pursuance thereof, no final patent has ever been issued by the United States to any of said Indians in pursuance of said allotment.

That the said Eli G. Nadeau and the said John A. Nadeau each reside, and at the date of the occurrence herein complained of did reside, and for many years theretofore had resided, upon his separate tract or parcel of land so allotted to each of said Indians in severalty upon said reservation. That neither said Eli G. Nadeau or John A. Nadeau had ever been naturalized or had ever applied to the district court of the United States or elsewhere to be naturalized as citizens of the United States, as provided by the treaty of 1862 with the Pottawatomic Indians and the United States, or otherwise. That said Eli G. Nadeau and John A. Nadeau was each born within the limits of the United States; that each of said Indians was born in the tribe, and each has ever since resided with said tribe, and neither of said Indians has ever resided separate and apart from 73 said tribe. But that the said Eli G. and John A. Nadeau have at different times, with the permission, tacit consent, and approval of

said Indian agent, carried on considerable business after the manner of white men, and each of said Indians has held title to lands outside of said reservation.

And the said Eli G. Nadeau, being the father of said John A. Nadeau, has at different times kept accounts in banks at Holton and at St. Marys, in the State of Kansas, and has deposited funds therein and withdrawn funds therefrom, as other persons dealing with said banks. But that neither said Eli G. Nadeau or John A. Nadeau, or any member of said tribe abiding upon said reservation, has ever been elected to or been a candidate for any office, State, county, township, or municipal, within said State; nor have any of said Indians ever voted or offered to vote at any election within said State; nor have any of said Indians ever served upon any jury or acted otherwise in any official or public capacity as citizens or inhabitants of said State; nor have said Indians, or any of them, ever had the benefit of any of the funds or public monies of said State or any subdivisions thereof.

And your orator further complaining, shows to the court that the Bureau of Indian Affairs, prior to the institution of any of the pretended actions at law herein mentioned, had lawfully authorized said Eli G. Nadeau and the said John A. Nadeau and one Henry B. Ekeam, a white man, to trade and do business as licensed traders of the United States with said Prairie band of Pottawatomie Indians upon said reservation, in the name and style of "Eli G. Nadeau, Son & Co." That the said Ekeam, on the day of May, 1897, became an embezzler and fled the country, with practically all the available means and assets of said "Eli G. Nadeau,

74 Son & Co.," except a stock of merchandise, located in said storehouse of said traders' store on said reservation; that immediately after said Ekeam had absconded, the defendants herein, to wit, The Parkhurst-Davis Mercantile Co., The National Bank of St. Marys, Kansas; Burnham, Hanna, Munger & Co., Bell, Conrad & Co., Thomas Page, George M. Haas, The State Bank of Holton, and The National Bank of Holton, each undertook and attempted to commence an action at law against said "Eli G. Nadeau, Son & Co.," and against the said Eli G. Nadeau and John A. Nadeau in the district courts of Jackson and Shawnee counties, in the State of Kansas.

The said State Bank of Holton, the said National Bank of Holton, and said other defendants, except the National Bank of St. Marys, commencing their said actions in the district court of Shawnee County, Kansas; the said National Bank of St. Marys commenced its action in the said district court of Jackson County, Kansas.

That said George M. Haas, assuming to act as said sheriff of Jackson County, unlawfully and without authority entered upon said Pottawatomie Indian Reservation, and there undertook and pretended to serve said so-called summons upon said Eli G. Nadeau and John A. Nadeau, licensed traders, and members of said Prairie band of Pottawatomie Indians, as aforesaid; that summons in said causes were also served upon said Eli G. Nadeau, in said county of Shawnee and outside of said reservation. That the said National Bank of St. Marys, Burnham, Hanna, Munger & Co., Bell, Conrad & Co., Thomas Page, and George M. Haas, the State Bank of Holton, and the National Bank of Holton,

undertook in said pretended actions to have issued so-called orders of attachment, and to cause the same to be delivered to the defendant,

75 George M. Haas, as sheriff of Jackson County, Kansas, as aforesaid, and the said George M. Haas, assuming to act as the sheriff of said Jackson County, Kansas, entered upon said Pottawatomie Indian Reservation, and there, unlawfully and without authority, undertook and assumed by virtue of said order of attachment so obtained by the National Bank of St. Marys to levy upon the stock of goods of said licensed traders so situated on said reservation, and also, by pretended authority of said order of attachment, undertook and pretended, on said reservation, to levy an attachment upon a large quantity of live stock, hogs, and horses then on said reservation, and then belonging to the said Eli G. Nadeau, a member of said Prairie band of Pottawatomie Indians. That the said Geo. M. Haas, sheriff of said Jackson County, Kansas, assuming to act in his official capacity, but unlawfully and without authority, after said pretended levies proceeded, without warrant or authority of law and in defiance of the laws, treaties, and authority of the United States and of the rights of said Indians, to sell said property so attached and to convert the proceeds thereof to his own use, and, your orator is informed and believes, for the benefit of said defendants who had brought said pretended actions against said "Eli G. Nadeau, Son & Co." And that said defendants will shortly proceed to subvert the law, distributing among themselves the avails of said property, so unlawfully seized and sold. And will thus defy the authority of the United States and prevent your orator from carrying out its treaty and lawful engagements with said Prairie band of Pottawatomie Indians.

And said defendants, other than said Haas, threaten to, and are about to proceed to take judgment against said Indians in said courts and to have final process issue thereon, and to enter again said reservation, 76 and by means of said final process then and there, again in defiance of the authority of the United States, seize and levy upon any other property of said Indians—to wit, said Eli G. and John A. Nadeau—which may be there found, unless said defendants are restrained from so doing by this honorable court.

And your orator further complaining, shews to the court that the matter and amount in dispute, in this suit, exceeds the sum or value of two thousand dollars, exclusive of interests and costs; and that the said Eli G. Nadeau and John A. Nadeau, by reason of the wardship existing between them, and each of them, and your orator, are incompetent to sue in their own behalf, or to defend their own rights in any court of the United States.

In consideration whereof, and inasmuch as your orator can only have adequate relief in the premises in this honorable court where matters of this nature are properly cognizable and relievable, your orator prays that this honorable court may order, adjudge, and decree that a preliminary or provisional injunction may be issued against the defendants, restraining them, and each of them, until the further order of this court, from serving or causing to be served upon said reservation of the Prairie band of Pottawatomie Indians, any summons, order, attachment, execu-

tion, or other process issued out of any court of the State of Kansas against said Eli G. Nadeau and John A. Nadeau, or either of them, or any other member of said Indian tribe; and from further prosecuting or taking judgment in said several actions, or any of them, against either of said Indians; and from interfering with or taking possession in any manner whatsoever, of any property, real or personal, upon said reservation, belonging to or owned by any member of said Indian tribe; and from further disposing of, or selling any merchandise, live stock, hogs, horses, or other personal property heretofore mentioned, under pretended authority or process issued out of the district courts of Jackson and Shawnee counties, or of either of said counties, or otherwise seized, levied, or taken into possession by said defendants or either of them.

That a permanent injunction may issue herein, in the same purport and effect as is hereinbefore prayed in regard to said preliminary or provisional injunction, and that said defendants, particularly the defendant George M. Hass, his agents and deputies, be required and commanded to return to said Indian reservation, and to the possession of the owners from whom he took the same, all merchandise, live stock, horses, hogs, and other personal property heretofore levied on, seized, or sold by him on said reservation; and that this court shall also decree to be void all so-called levies, seizures, and sales of such property heretofore made by defendants, or either or all of them. And that the pretended title of any person who purchased any of said property, at any of said alleged sales, is null and void.

And your orator will ever pray.

I. E. LAMBERT,
U. S. Attorney.

78 STATE OF KANSAS,
County of Shawnee, ss:

Eli G. Nadeau, being first duly sworn on his oath, deposes and says: That he is the same person (Eli G. Nadeau) mentioned in the foregoing amended bill of complaint; that he has heard, read, and knows the contents of said amended bill of complaint; that said contents are true, except in so far as they are alleged upon information and belief, and as to these he swears he believes them to be true.

ELI G. NADEAU.

Subscribed and sworn to before me, a notary public, this 13th day of November, 1897.

[SEAL.]

W. G. MILAM,
Notary Public.

(My commission expires the 3rd day of March, 1891.)

(Endorsed:) In the U. S. C. C. for dist. of Kans., first division. No. 7512. The U. S. of America, complainant vs. The Parkhurst-Davis Mer. Co. et. al., defendants. Amended bill of complaint. Filed November 22nd, 1897. Geo. F. Sharitt, clerk.

79 In the circuit court of the United States for the district of Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT,

vs.

THE PARKHURST-DAVIS MERCANTILE COMPANY,
a corporation organized under the laws of the State
of Kansas; The National Bank of St. Marys, Kan-
sas, a corporation organized under the national
banking laws of the United States; J. K. Burnham,
Thomas E. Hanna, A. H. Munger, Fred C. Stoepel,
R. H. Missrer, Harry McWilliams, Henry L. Root,
partners as Burnham, Hanna, Munger & Co.; J.
Hamilton Bell & J. Henry Conrad, partners as
Bell, Conrad & Co.; Thomas Page, George M. Haas,
The State Bank of Holton, a corporation organized
under the laws of the State of Kansas; The National
Bank of Holton, a corporation organized under the
banking laws of the United States, defendants.

No. 7512.

The demurrer of the Parkhurst-Davis Mercantile Company, The National Bank of St. Marys, Kansas; Thomas Page, The State Bank of Holton, The National Bank of Holton, and J. Hamilton Bell and J. Henry Conrad, partners as Bell, Conrad & Company, and George M. Haas, defendants to the bill of complaint of the said plaintiff in this, the above-entitled suit.

These defendants, respectively, by protestation, not confessing or acknowledging all or any of the matters and things in the said plaintiff's bill to be true in such manner and form as the same are set forth and alleged, do demur thereto, and for cause of demurrer show:

1. That the said plaintiff has not in and by said bill made or stated such a cause as doth or ought to entitle it to any such discovery or relief as is thereby sought and prayed for from or against the defendants or either of them.

2. That it appears by the plaintiff's own showing by the said bill that it is not entitled to the relief prayed by the bill against
80 these defendants or either of them.

3. That the said bill is exhibited against these defendants, and several other defendants to the said bill, for several and distinct and independent matters and causes which have no relation to each other, and in which, or, in the greater part of which, neither of these defendants is in any way interested or concerned, and ought not to be implicated.

Wherefore, and for divers other good causes of demurrer appearing on the said bill, these defendants, respectively, demur thereto, and each and all of these defendants pray the judgment of this honorable court whether they or either of them shall be compelled to make any answer to the said bill, and that each of them humbly pray to be hence dismissed with their and each of their reasonable costs in this behalf sustained.

DOBBS & STOKER,
HAYDEN & HAYDEN,
Solicitors for said Defendants.

Valentine, Goddard & Valentine, of counsel for said defendants here demurring.

THE STATE OF KANSAS,

County of Jackson, ss:

George S. Linscott, of lawful age, makes solemn oath and says: That he is the cashier of the said defendant, the National Bank of Holton, and that the foregoing demurrer is not interposed for delay.

GEO. S. LINSOTT.

Sworn and subscribed to before me this 27th day of December, 1897.

[SEAL.]

MAY C. BECKWITH,

*Notary Public in and for said County of Jackson,
and State of Kansas.*

(My commission as notary public will expire on the 24th day of January, 1899.)

We hereby certify that the foregoing demurrer is, in our opinion, well founded in point of law.

VALENTINE, GODDARD & VALENTINE,
Of Counsel for Defendants Demurring.

81 (Endorsed:) No. 7512. United States of America *vs.* The Parkhurst-Davis Mercantile Company et al. demurrer. Filed Dec. 29, 1897. Geo. F. Sharitt, clerk. Valentine, Goddard & Valentine, Hayden & Hayden, attorneys for defendants.

82 In the circuit court of the United States for the district of Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT,	} In equity. Decree.
<i>vs.</i>	
THE PARKHURST-DAVIS MERCANTILE CO., defendant'.	

Now, to wit, on this 4th day of March, 1898, to wit: At the November term, 1897, of said court the demurrer of the defendants to the bill of the complainant in the above-entitled cause coming on to be heard, the complainant appearing by I. E. Lambert, esq., district attorney of the United States for the district of Kansas, and the defendants by Hayden & Hayden, their attorneys, and the court having heard argument of counsel and being sufficiently advised in the premises as to the decision which should be given upon said demurrer, finds that said demurrer should be sustained for want of equity in said bill.

It is therefore considered, ordered, adjudged, and decreed that the demurrer of the defendant' to complainant's bill be sustained for want of equity in said bill, and because said bill states no sufficient facts or grounds to entitle complainant to equitable relief.

And it is further ordered, adjudged, and decreed by the court that said bill be dismissed.

83 To which ruling, order, and decree of the court the complainant at the time excepted.

JNO. A. WILLIAMS, *Judge.*

(Endorsed:) In U. S. circuit court. No. 7512. United States of America vs. The Parkhurst-Davis Mercantile Company. In equity. Decree. Filed March 4th, 1898. Geo. F. Sharitt, clerk.

84 In the circuit court of the United States for the district of Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT,

vs.

THE PARKHURST-DAVIS MERCANTILE CO.,
a corporation organized under the laws of the
State of Kansas; The National Bank of St.
Marys, Kansas, a corporation organized under
the national banking laws of the U. S.; J. K.
Burnham, Thos. E. Hanna, A. H. Munger,
Fred C. Stoepel, R. R. Missrer, Harry Mc-
Williams, Henry L. Root, partners as Burn-
ham, Hanna, Munger & Co.; J. Hamilton Bell
and J. Henry Conrad, partners as Bell-
Conrad & Co.; Thos. Page; George M. Haas;
The State Bank of Holton, a corporation
organized under the laws of the State of
Kansas; The National Bank of Holton, a
corporation organized under the national
banking laws of the U. S., defendants.

Prayer for appeal.

Come now the complainant in the above entitled cause, the United States of America, by I. E. Lambert, United States attorney for the district of Kansas, and prays the court to allow complainant an appeal to the Supreme Court of the United States from the judgment and decree of this court herein, sustaining the demurrer of the defendants to the complainant's bill and dismissing said bill of complaint.

To all of which complainant at the time excepted and still excepts, and alleges that the said judgment and decree of the court was erroneous in this, that the bill of complaint herein contains facts sufficient to entitle complainant to equitable relief, as therein prayed for.

85 Wherefore complainant alleges said ruling of the court upon said demurrer as error, and prays for an order granting complainant an appeal herein and for the issuance of citation to the said defendants, and each of them, as appellees herein.

I. E. LAMBERT,
U. S. District Attorney.

(Indorsed:) In U. S. circuit court, district of Kansas, first division, No. 7512. U. S. of America, complainant, vs. The Parkhurst-Davis Mercantile Co. et. al., defendants. Prayer for appeal. Filed July 29th, 1898. Geo. F. Sharitt, clerk.

86 In the circuit court of the United States for the district of Kansas, first division.

UNITED STATES OF AMERICA, COMPLAINANT,
vs.

THE PARKHURST-DAVIS MERCANTILE CO.,
a corporation organized under the laws of the
State of Kansas; The National Bank of St.
Marys, Kansas, a corporation organized under
the national banking laws of the U. S.; J. K.
Burnham, Thos. E. Hanna, A. H. Munger,
Fred C. Stoepel, R. R. Missrer, Harry Mc-
Williams, Henry L. Root, partners as Burn-
ham, Hanna, Munger & Co.; J. Hamilton
Bell and J. Henry Conrad, partners as Bell-
Conrad & Co.; Thos. Page; George M. Haas;
The State Bank of Holton, a corporation
organized under the laws of the State of Kan-
sas; The National Bank of Holton, a corpora-
tion organized under the national banking
laws of the U. S., defendants.

Order allowing appeal.

And now, to wit, on this 6th day of July, 1898, comes the complainant in the above entitled cause, the United States of America, by the United States district attorney for the district of Kansas, Hon. I. E. Lambert, and complainant having presented to the court its application and prayer for an appeal herein to the Supreme Court of the United States the same is by the court allowed and granted this 6th day of July, 1898.

CASSIUS G. FOSTER, *Judge.*

(Indorsed:) No. 7512. Order allowing appeal. Filed July 29th, 1898. Geo. F. Sharitt, clerk.

87 UNITED STATES OF AMERICA,
District of Kansas, ss:

I, Geo. F. Sharitt, clerk of the circuit court of the United States of America for the district of Kansas, do hereby certify the foregoing to be a true, full, and correct copy of the record and proceedings in said court in the case of United States of America vs. The Parkhurst-Davis Mercantile Company et al., No. 7512. I further certify that the original citation is returned herewith and made a part of this transcript.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at my office in Topeka, in said district of Kansas, this 4th day of August, A. D. 1898.

[SEAL.]

GEO. F. SHARITT, *Clerk.*

88 In the circuit court of the United States for the district of Kansas, first division.

THE UNITED STATES OF AMERICA, COM- plainant, <i>vs.</i> PARKHURST-DAVIS MERCANTILE CO. ET AL., defendants.	}
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Come now J. Hamilton Bell and J. Henry Conrad, partners as Bell, Conrad & Co., defendants in the above-entitled suit, and, waiving the issuance and service of citation to appear in the Supreme Court of the United States in the appeal herein, do hereby enter their appearance in said Supreme Court of the United States to said appeal in said cause.

BELL, CONRAD & Co.,
By HAYDEN & HAYDEN,
Their Attorneys of Record.

(Indorsement on copy:) Case No. 16980. Kansas C. C. U. S. Term No. 395. The United States, appellant, vs. The Parkhurst-Davis Mercantile Co., The National Bank of St. Marys, Kansas, et al. Filed September 10th, 1898.

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